

AMENDMENT NO. 2

LEASE AGREEMENT

CITY OF MIAMI  
and  
GENERAL SERVICES ADMINISTRATION  
of the  
UNITED STATES OF AMERICA

THIS AMENDMENT NO. 2, made this 25<sup>th</sup> day of NOVEMBER 1991, to a lease agreement dated October 22, 1987, as amended, by and between the City of Miami, a municipal corporation of the State of Florida, hereinafter referred to as the "CITY" or "LESSOR," and the United States of America, acting by and through the General Services Administration, its agency, in accord with 40 U.S.C. 751 et. seq., 40 U.S.C. 490(h) and Public Law 99-591, hereinafter referred to as "GOVERNMENT" or "LESSEE."

WITNESSETH:

WHEREAS, on July 23, 1987, the City Commission adopted Resolution No. 87-746 authorizing the City Manager to execute a lease agreement between the U.S. General Services Administration and the City of Miami setting forth the terms and conditions for the City to construct and lease to the United States an approximately 250,000 occupiable sq.ft. building to house the [REDACTED] and other [REDACTED] in Miami to be located on City-owned property between N.E. 4th Street, N.E. 5th Street, N.E. 1st Avenue and N. Miami Avenue, for

a period not to exceed thirty years with renewal options by the U.S. General Services Administration; and

WHEREAS, the City Manager executed a Lease Agreement with the U.S. General Services Administration on October 22, 1987; and

WHEREAS, on October 6, 1988, the City Commission adopted Resolution No. 88-909 authorizing the City Manager to execute Amendment No. 1 to said Lease Agreement for the purpose of extending the building permit issuance date; and

WHEREAS, the City Manager executed Amendment No. 1 to the Lease Agreement on June 23, 1989; and

WHEREAS, under the terms of the Lease Agreement executed October 22, 1987, as amended June 23, 1989, the Government is required to commence payment of annual rental on or prior to January 1, 1992, whether or not the Government has taken occupancy of the building; and

WHEREAS, various defined terms within the Lease Agreement as specified in Section 1. herein including the commencement date are inconsistent and require revision; and

WHEREAS, the City and the Government desire to amend the terms of the Lease;

NOW, THEREFORE, THE PARTIES AGREE TO AMEND THE AGREEMENT AS FOLLOWS:

#### SECTION I. DEFINITIONS

The definition of the term Commencement Date is hereby amended in its entirety to read as follows:

The effective date upon which the initial thirty-year term of this Lease shall commence is the date upon which the GOVERNMENT commences to make payments to the CITY of the Annual Rental, which payments shall commence no later than January 1, 1992.

The definition of the term Project Land is hereby amended in its entirety to read as follows:

The Project Land is located in Miami, Florida and is comprised of Lots 1, 2, pt. 3, 17, 18, 19, and 20 of Block 78 N, located between Northeast 4th and 5th Streets and Northeast 1st Avenue and Miami Avenue, more particularly described in Exhibit "A" as attached and incorporated herein by reference.

### SECTION III. RENT

Subsection 3.4 Unconditional Obligation is hereby inserted to read as follows:

The obligation of the GOVERNMENT to pay the Annual Rental and Additional Rental and all other amounts payable hereunder is unconditional and absolute, and shall not be suspended, discontinued or terminated, except as otherwise herein expressly provided, for any reason or cause, including, without limitation, any delay or failure of the Building to be completed, operating or operable; any defect in the title, quality, condition, design, operation or fitness for use of, or any damage to, or loss of, or loss of

use of, or destruction or theft of all or any part of the Building from any cause whatsoever; any acts or circumstances that may constitute failure of consideration, commercial frustration of purpose, any abatement, suspension, deferment, reduction, setoff, defense, counterclaim or recoupment whatsoever, or any right to any claim thereof that the GOVERNMENT may now or hereafter have against the CITY; any interruption or prohibition of the use or possession by the GOVERNMENT of, or any ouster or dispossession by paramount title or otherwise of the GOVERNMENT from, all or any part of the Building; any delay in completion of the Building or any portion thereof; the invalidity or unenforceability or disaffirmance, in whole or in part, of this Lease, or any failure, omission, delay or inability of the CITY to perform any of its obligations contained in this Lease; or any other circumstance, happening or event whatsoever, whether foreseeable or unforeseeable, and whether similar or dissimilar to the foregoing, it being the intention of the parties hereto that all amounts payable by the GOVERNMENT in respect of this Lease shall continue to be payable in all events in the manner and at the times herein provided.

SECTION VII. STEP 3 - PROJECT DEVELOPMENT

Subsection 7.3 Changes in the Work, second paragraph, is hereby amended in its entirety to read as follows:

The CITY and the GOVERNMENT anticipate that the GOVERNMENT will request change orders with respect to the construction of the Building during the period of construction. It is hereby agreed that the GOVERNMENT will be responsible for all cost increases resulting from such change orders and that the GOVERNMENT will provide, upon submission of such a change order, the necessary moneys to pay for the increased costs resulting therefrom. So long as the GOVERNMENT provides the funds necessary to pay for such increased costs upon acceptance of the change order work by the GOVERNMENT, no amendment to this Lease in connection therewith shall be necessary.

Subsection 7.4 Construction Completion Date is hereby amended in its entirety to read as follows:

Subject to the force majeure provision contained in this Agreement, construction shall be completed within thirty-four (34) months after the date the Developer and/or Contractor have contracted with the CITY to build the Project.

Subsection 7.5 Special Requirements, paragraph (c), is hereby amended in its entirety to read as follows:

A building permit for the Building shall be issued within nine (9) months from the date the Developer and/or Contractor have contracted with the CITY to build the Project.

SECTION X. - GENERAL PROVISIONS

Subsection 10.10 Assignment and Subleasing is hereby amended by adding the following sentence at the end of the paragraph:

Notwithstanding the foregoing, it is hereby acknowledged by the Parties hereto that no renegotiation of the terms of the Lease as contemplated by this Section 10.10 may reduce the Annual Rentals paid by the GOVERNMENT below the amount required to pay when due all debt service in connection with the Bonds issued by the CITY to finance the acquisition and construction of the Building.

SECTION XII. - AMENDMENTS

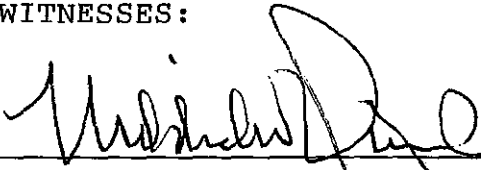
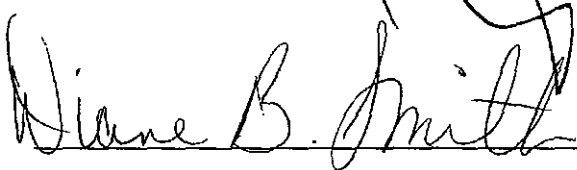
Subsection 12.3 Notice of Amendments is hereby inserted to read as follows:

The CITY and the GOVERNMENT shall provide prior written notice to Moody's Investors Service, Inc. and Standard & Poor's Corporation of any amendment to this Lease.

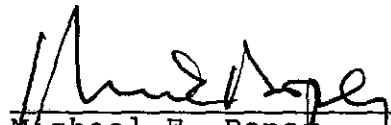
It is further understood that all conditions outlined under the original Agreement dated October 22, 1987, as amended, shall remain in full force and effect except as modified herein.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective officials thereunto duly authorized this day and year first above written.

WITNESSES:

  
\_\_\_\_\_  
  
\_\_\_\_\_  
Dianne B. Smith

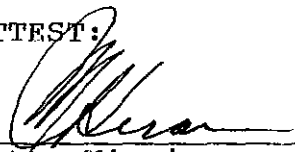
GENERAL SERVICES ADMINISTRATION

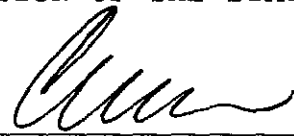
By:   
\_\_\_\_\_  
Michael E. Roper  
Contracting Officer

Date Executed: 11/15/91

CITY OF MIAMI, A MUNICIPAL  
CORPORATION OF THE STATE OF  
FLORIDA

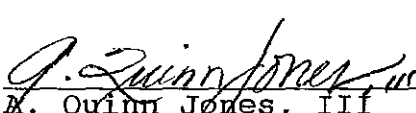
ATTEST:

  
\_\_\_\_\_  
Matty Hirai  
City Clerk

By:   
\_\_\_\_\_  
Cesar H. Odio  
City Manager

Date Executed: 11/15/91

APPROVED AS TO FORM AND  
CORRECTNESS:

  
\_\_\_\_\_  
M. Quinn Jones, III  
City Attorney


STATE OF GEORGIA)

)SS:

COUNTY OF FULTON

BEFORE ME personally appeared Michael E. Roper, Contracting Officer for the United States of America, and acknowledges the foregoing for the purposes herein described this 19<sup>th</sup> day of November, 1991.



  
Notary Public  
State of Georgia